IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

Date of decision : August 17, 2006

Criminal Appeal No. 497-DB of 2004

Avtar Singh Vs. State of Haryana

Criminal Appeal No. 533-DB of 2004

Sat Narain Vs. State of Haryana

Criminal Appeal No. 714-DB of 2004

Bablu Vs. State of Haryana

Criminal Revision No. 1226 of 2004

Ravinder Kumar Godara Vs. State of Haryana and another

Criminal Revision No. 1436 of 2005

State of Haryana Vs. Bablu

Coram: Hon'ble Mr. Justice Virender Singh
Hon'ble Mr. Justice A.N. Jindal

Present: Mr. RS Ghai, Senior Advocate, with
Mr. Bipan Ghai, Advocate, for the appellants.

Mr. Sunil Katyal, Deputy Advocate General, Haryana
Mr. Vikram Chaudhary, Advocate, for the complainant.

Virender Singh, J.

Vide this common judgment we are disposing off aforesaid three appeals and two criminal revisions, as the same have arisen from one and the same judgment of learned Additional Sessions Judge, Sirsa dated 5.5.2004.

All three appellants stand convicted and sentenced as under:-

Sat Narain

Under section 302 IPC substantively	Sentenced to undergo imprisonment for life and to pay a fine of Rs 10,000/-, in default of payment of fine to further undergo imprisonment for two years.
Under section 307 IPC substantively	Sentenced to undergo imprisonment for life and to pay a fine of Rs 5,000/-, in default of payment of fine to further undergo imprisonment for one year.
Under section 324/34 IPC.	Sentenced to undergo imprisonment for one year and to pay a fine of Rs 200/-, in default of payment of fine to further undergo imprisonment for two months.
Under section 323/34 IPC.	Sentenced to undergo imprisonment for three months.

Avtar Singh

Under section 302/34 IPC.	Sentenced to undergo imprisonment for life and to pay a fine of Rs 10,000/-, in default of payment of fine to further undergo imprisonment for two years.
Under section 307/34 IPC.	Sentenced to undergo imprisonment for life and to pay a fine of Rs 5,000/-, in default of payment of fine to further undergo imprisonment for one year.
Under section 324 IPC substantively.	Sentenced to undergo imprisonment for one year and to pay a fine of Rs 200/-, in default of payment of fine to further undergo imprisonment for two months.
Under section 323 IPC substantively.	Sentenced to undergo imprisonment for three months.

It is worth mentioning here that after Bablu appellant was convicted by the learned trial Court, his case was sent to the Juvenile Justice Board, Hissar for passing an appropriate order on the quantum of sentence under the new Juvenile Justice Act. The learned Principal Magistrate Juvenile Justice Board, Hissar vide impugned order dated 3.6.2004, while imposing substantive sentence upon him has observed that he has attained the age of 22 years, hence there was no ground for sending him to special home and awarded the substantive sentence to him as mentioned below:-

Bablu

Under section 302 IPC.	Sentenced to undergo imprisonment for ten years.
Under section 307 IPC.	Sentenced to undergo imprisonment three years.
Under section 324 IPC.	Sentenced to undergo imprisonment six months.
Under section 323 IPC.	Sentenced to undergo imprisonment for six months.

All the sentences awarded on different counts by the learned trial court were ordered to run concurrently.

The complainant-Ravinder Godara has filed a revision bearing Criminal Revision No. 1226 of 2004 against aforesaid Bablu showing his grouse that the learned trial court has mis-interpreted and mis-construed the provisions of Juvenile Justice (Care and Protection of Children) Act, 2000 (for short 'the Act') as it was incumbent upon the trial court to reach a definite conclusion that respondent no. 2 was less than 18 years of age before any order under section 20 of the Act could be passed and therefore, with regard to quantum of sentence, his case is at par with his two co-accused, namely, Sat Narain and Avtar Singh. The said revision after its admission was ordered to be heard with Criminal Appeal No. 497-DB of 2004 (Avtar Singh vs. State of Haryana).

State of Haryana has also preferred Criminal Revision No. 1436 of 2005 only against Bablu appellant and the same is also ordered to

be heard along with aforesaid Criminal Appeal.

Chhotu Ram alias Lal Bahadur resident of village Chamar Khera Police Station Sadul Shahar, District Ganga Nagar (Rajasthan) is the deceased in this case. He is real brother of Ravinder Kumar PW14, the first informant and husband of Sakeela PW15. The occurrence has taken place in village Chautala which falls within the jurisdiction of Police Station Sadar Dabwali. The place of occurrence is near the Dhani (hamlet) of Sat Narain appellant and Darshan Lal PW12. Sat Narain and Darshan Lal are two real brothers. Chhotu Ram (since deceased) was brother-in-law of Darshan Lal as his real sister Sunita Devi is married to him. The distance between village Chautala and Chamar Khera is about 65 kilometers as is clear from the evidence on record.

The occurrence is of 17.6.1999 at about 3.30 AM. Statement Ex. PU of Ravinder Godara was recorded at 9.15 AM in Civil Hospital, Sangaria by ASI Umed Singh PW18 Incharge of Police Post Chautala. On the endorsement Ex. PU/1 by aforesaid ASI Umed Singh, formal FIR Ex. PU/2 was recorded in Police Station Sadar Dabwali at 10.20 AM under sections 302,307,323 read with Section 34 IPC and under sections 25/27/54/59 of the Arms Act. Special report reached Judicial Magistrate Ist Class, Dabwali on 17.6.1999 itself at 2.00 PM through Constable Ramesh Chander PW10 who has tendered his affidavit Ex. PQ.

Ravinder Kumar PW14 alleges that he is resident of

village Chamar Khera, Police Station Sadul Shahar, District Ganga Nagar (Rajasthan). His sister Sunita Devi is married with Shri Darshan Lal son of Devi Lal, Bishnoi, resident of Dhani Chautala, District Sirsa (Haryana). Yesterday on 16.6.1999 at about 8.00 P.M. he had gone to see his sister Sunita at Dhani Chautala, District Sirsa where some quarrel took place between his brother-in-law Darshan Lal and his (Darshan Lal) nephew Bablu son of Sat Narain. Thereupon Darshan Lal went to call Chhotu Ram alias Lal Bahadur, brother of the complainant from village Chamar Khera in a jeep. At about 1.30 A.M.(night time) Darshan Lal returned with Chhotu Ram and his wife Sakeela (since declared as a proclaimed offender). At about 3.30 AM on 17.6.1999 Sat Narain armed with a gun, his son Bablu armed with a gandasi, his wife Savitri armed with a Kasoli and Avtar Singh son of Harphool Singh, Kumhar, resident of Sangaria armed with a lathi came in a Maruti car at the Dhani of Darshan Lal and stopped the car on the way. They started hurling abuses at Darshan Lal, his wife and complainant Ravinder Godara. They tried to stop Sat Narain etc. but to no effect. Chhotu Ram (since deceased) asked Sat Narain etc. to return home and they will talk in the morning. Thereafter, the complainant with his brother Chhotu Ram and sister-in-law Sakeela boarded a jeep and left for Sangaria to bring Banwari Lal from Sangaria. Chhotu Ram was on the steering wheel of the jeep whereas Ravinder was sitting by his side and Sakeela was sitting on the back seat behind her husband. When their jeep reached near

the car of accused Sat Narain etc. all the accused raised a Lalkara in chorus to teach a lesson to the complainant party for siding with Darshan Lal. Thereafter, accused Sat Narain fired a shot at Chhotu Ram with his licenced gun and the pellets hit near his right shoulder and fired another shot at the complainant but the latter saved himself by taking shelter behind the jeep after jumping from it towards the left side. Bablu gave a gandasi blow on the right heel of Ravinder. Sat Narain then fired another shot towards Sakeela and the pellets hit her right hand. It is then alleged that Savitri caused injuries with Kasoli and Avtar Singh caused injuries with Lathi on the left foot and knee of Ravinder. The pellets also hit the front portion of the jeep of the complainant party. On their raising of alarm, Darshan Lal and Vikram Singh son of Ripu Daman and Sunita were attracted and they came running to the spot from the Dhani (hamlet). They raised a lalkara saying that they (complainant party) need not feel frightened as they were coming. On seeing them coming the aforesaid assailants fled away from the spot in their car carrying their respective weapons. The injured were shifted to Civil Hospital, Sangaria. Chhotu Ram succumbed to his injuries. The motive projected is that a dispute was going on between Darshan Lal and his brother Sat Narain over the turn of water and passage etc. and Chhotu Ram was siding with Darshan Lal.

ASI Umed Singh took up the investigation of the case and got Ravinder Godara, Chhotu Ram and Sakeela medico legally examined from

Dr. RC Ola, PW7 of Civil Hospital, Sangaria. Inquest proceedings were initiated by him. Post mortem examination on the dead body of Chhotu Ram was performed by the aforesaid Dr. Ola at 2.00 PM on 17.6.1999 itself.

Darshan Lal PW12 produced the jeep bearing registration No. HR-25-5071 of the deceased which was taken into possession. He also lifted some blood stained broken pieces of bangles from the place of occurrence. Rough site plan was also prepared. Four empty cartridges, one missed cartridge and blood stained earth were also taken into possession from the spot. The number plate of the car, broken bumper of the jeep and four pairs of hawai chappals were also lifted from the spot and taken into possession. After the post mortem report, two parcels containing clothes of the deceased Chhotu Ram and the vial containing pellets were taken into custody from the doctor.

The investigation was thereafter handed over to SI Surat Singh PW17. On 20.6.1999 he collected one parcel containing pellets from the person of Sakeela and took the same into police custody.

On 26.6.1999, Sat Narain and Bablu were arrested from Bus Stand Sakta Khera. Sat Narain produced his licenced gun along with licence which was taken into possession.

During the investigation appellant Avtar Singh was found innocent and as such he was kept in column no. 2. He was summoned subsequently on an application moved by the State under section 319 of the

Code of Criminal Procedure. Savitri wife of Sat Narain has, however, been declared as a proclaimed offender as she could not be arrested.

After the completion of investigation, challan was filed against the accused. They were consequently charged for various offences as indicated above.

In order to substantiate its case, the prosecution has examined as many as 18 witnesses. The evidence of some of the witnesses is of formal nature. The main witnesses are, however, are as under:-

Dr. RC Ola PW7 had medico legally examined Chhotu Ram alias Lal Bahadur since deceased on 17.6.1999 at 4.45 AM in C.H.C. Sangaria and found seven injuries on his person which are depicted as below:-

> "1. A lacerated wound 6 cm x 2 cm into muscle deep about 4 cm deep, irregular in shape with irregular skin margins, inverted, multiple holes present .3 cm to .5 cm x .2cm to .5 cm sized in margins and near margins around the wound on posterior aspect of right arm just below the shoulder, underlying muscles also found lacerated severally, no blackening and tattooing of the skin, inner end of the wounds communicate with wound of the axilla.
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> 2. Lacerated wound 15 cm x .5 cm x muscles and bone deep, underlying muscles found lacerated severally, bones (ribs) felt

fractured in axilla on posterior margins. Skin of the wound found inverted and margins were irregular, directions of the wound was anterior and inwards towards the chest wall. Few holes were present near margins of the wounds. Marked swelling (Haematoma) on the lateral side of chest wall with surgical emphysema on right side just below the wound of entry in axilla and also on lateral part of abdomen just below the chest.

3. Two abrasion 3.5 x.5 cm on posterior part of fore-arm on upper part and just below the elbow.

4. Lacerated punctured wound .3cm x .2 cm on posterior part of the elbow skin deep.

5. Five punctured wounds oval to rounded shape .3 x .3 cm to .3 x .2 cm on posterior aspect of middle of right fore-arm with multiple foreign body felt on posterior part of right fore-arm.

6. Punctured wound .2 x .2 cm on dorsum of right ring finger on middle phalanx bony crapts felt.

7. Abrasion with punctured wound 1.5 cm x 1.5 cm on dorsum of middle phalanx of the right index finger. “

This witness had removed two pellets from injury no. 2 and

preserved them for FSL examination. Few holes near the margins of the wounds were also noticed by him. X-ray was advised for all the injuries except injury no. 3 which was in the shape of two abrasions on the posterior part of fore-arm. According to his opinion, the weapon used for all the injuries except injury no. 3 was fire arm. This witness further states that the pulse was not countable as it was running very fast and feeble B.P. 40 mm of hg. was noticed. Respiration had also increased.

The wound was dressed with packing and tight bandage was done by Dr. J.K.Sharma, General Surgeon. The patient was referred to C.M.C. Ludhiana after some improvement in the condition but during transportation he died at 6.30 AM. Ruqa Ex.PK was sent by this witness to SHO Sangaria about the death. Presence of multiple metallic shadows (7 pellets) in pericardial area and media stinum was seen. Multiple pellets were also noticed in the right arm and right chest wall. Certain metallic shadows were also noticed in the right elbow and fore-arm area, right index finger and right ring finger with fracture of middle phalanx. Dr. Ola has also proved the X-ray plates.

Ravinder Kumar PW14 was also medico legally examined by him and found the following injuries on his person:-

> "1. Cut wound 21 x 2.5 cm x bone deep on medial side of right foot parallel to sole from the distal end of metatarsal bone to posterior part of heel.

2. Three abrasions 1.5 cm x 1 cm x .2 cm on medial side of left knee.

3. Abrasion 2 cm x .5 cm on medial side of left leg on upper 1/3rd part.

He had advised X-ray for injury no. 1 whereas other two injuries were declared simple caused by blunt weapon. Injury no. 1 was opined to be from a sharp edged weapon. Duration of injury was described as within six hours. He also proved the MLR Ex. PG of the injured.

Shakeela PW15 wife of the deceased was also examined by him on the same day and on her person the following injuries were noticed:-

"1. Punctured wound .3 cm x .3 cm x muscle deep on dorso medial aspect of right fore-arm on upper part. Margins were inverted and reddish. Bleeding was found on touching.

2. Punctured wounds seven in number rounded to oval shaped .3 cm x .3 cm x skin to muscle deep. Margins were inverted. Bleeds on touch on lower half of right fore-arm on dorsal aspect, swelling of lower half of right fore-arm present with painful movements.

3. One oval punctured wound on right sided glutial region on upper part .3 x .2 cm. Bleeds on touch. Skin margins were inverted and muscle deep."

He also proved the MLR of this witness and on X-ray examination found multiple metallic shadows (pellets) on right fore-arm and right wrist region with fracture of lower end of right ulna, some metallic shadow were found just below the elbow, right side of pelvis. X-ray films with regard to this witness were also proved by this doctor.

After the death of Chhotu Ram alias Lal Bahadur, Dr. Ola also conducted the post mortem on his dead body and while describing the injuries as contained in MLR, he noticed that there was free blood in thorosic cavity, Larynx and tracheae pallorness, right lung was lacerated at multiple side below the fractured ribs and with pellets. 17 pellets and two wads received from the wounds were preserved by this witness. According to the post mortem examination, the cause of death was due to severe hemorrhage and shock as a result of extensive injury to right lung and large vessels of right arm in upper part with fire arm (gun shot injury). All the injuries were declared as ante mortem in nature. Original PMR Ex. PM was proved by him.

The main eye version account is unfolded by Ravinder Kumar PW14, brother of deceased, Sakeela PW15 wife of the deceased who have reiterated the prosecution case as narrated in the preceding paras. We do not feel the necessity of reproducing their evidence once again to burden our judgement.

Darshan Lal PW12 and Vikram PW13 are the witnesses of the

motive and the altercation ensued a few minutes prior to the occurrence. However, as per their substantive statement both of them rushed to the site after hearing the alarm. They brought the injured to Government hospital Sangaria in a jeep which was being driven by Chhotu Ram (since deceased) at the time of occurrence. PW Darshan Lal also gives the flash back of his land dispute with Sat Narain appellant, his real brother.

As referred to above, the investigation was conducted by SI Surat Singh PW7 and ASI Umed Singh PW18 and since the same has been depicted in the preceding paras, we do not intend to reproduce the same once again. However, we shall be discussing the same at the relevant stage in subsequent paras of our judgement.

The prosecution also tendered into evidence the reports of the FSL Ex. PY and PZ.

The plea taken up by appellant Sat Narain as emerging from his statement recorded under section 313 of the Code of Criminal Procedure is that he was summoned at the hamlet (Dhani) of Dashan Lal on 17-6-1999 , some time before the occurrence and was threatened of dire consequences by Chhotu Ram and others. Some outsiders were also brought by Chhotu Ram. It is then pleaded that when he was returning in the car with his licenced gun, the complainant party waylaid him and threatened to finish him. In order to save himself, he started running but was chased and stopped by the complainant side by striking their jeep

against his car. The complainant party was armed with deadly weapons and he (Sat Narain) in exercise of his self defence fired a shot which incidentally hit Chhotu Ram. Sakeela also suffered pellet injuries from that shot only. Ravinder the other injured in fact had received injuries at the hands of Siri (farm helper) of Sat Narain when the complainant party went to his Hamlet (Dhani) armed with weapons.

The other appellants have pleaded their absence at the scene of occurrence while toeing the defence set up by their co-accused Sat Narain.

No defence evidence was led by either of the appellants.

After appreciating the entire evidence, the present three appellants stand convicted and sentenced as indicated above. Aggrieved by the same, they have preferred the instant appeals.

We have heard Mr. RS Ghai,Senior Advocate assisted by Mr. Bipan Ghai Advocate, Mr. Sunil Katyal, Deputy Advocate General, Haryana and Mr. Vikram Chaudhary, learned counsel for the complainant. With their assistance we have gone through the entire record.

Mr. Ghai has made a two fold submission. First limb of his argument is that Bablu, Avtar, Savitri were not present at the scene of occurrence and they have been falsely implicated in this case. The second limb of his argument is that Sat Narain, who admits his presence at the time of occurrence, had in fact acted in exercise of his right of private defence by firing a single shot at Chhotu Ram alias Lal Bahadur (deceased) and

even if it is taken to be a case of more than one shot fired by him, still it would amount to exceeding the right of self defence and in that eventuality, the main offence under Section 302 IPC deserves to be diluted.

Developing the first limb of argument, Mr. Ghai further contends that if one appreciates the entire evidence in its totality, forming of unlawful assembly is not proved. He submits that it is the case of the complainant that Chhotu Ram (since deceased) and Sakeela had reached the Dhani of Darshan Lal at about 1-00 O' Clock on the night intervening 16/17-6-1999. Thereafter Bablu, Avtar, Savitri and Sat Narain reached the Dhani of Darshan Lal at about 3-30 AM on 17-6-1999 and at that time they were allegedly armed with weapons. They were shown to be armed at the time of main occurrence also. The motive with the appellant side was to show their resentment against Chhotu Ram and his family members, who in fact had come to the rescue of Darshan Lal. All the accused had also allegedly abused Chhotu Ram and others after blocking the passage by parking their Maruti car. However, admittedly at that time they had not caused any injury to any one. From this Mr. Ghai wants to develop that had Sat Narain and three others been there at the Dhani of Darshan Lal as now alleged they would have certainly caused injuries to Chhotu Ram and others at that very stage and would not have waited for the second chance by allowing them to leave the Dhani (hamlet) for going to village Sangaria. This all shows that the story set up by the complainant regarding first

altercation at the Dhani (hamlet) of Darshan Lal is coined up with an oblique motive viz. to falsely implicate Bablu, Avtar and Savitri by attributing them specific injury with a particular weapon.

Mr. Ghai then submits that it is not possible to give a photographic version of the occurrence of 3.30 AM, which is a dead hour of the night and an improvement is made by the complainant side in the court saying that when the aforesaid four persons had reached the Dhani of Darshan Lal, the lights of the Maruti car were on. This is done to show attribution of specific weapons in the hands of each of the accused. Mr. Ghai in the same stretch submits that a considerable delay in lodging the First Information Report also creates a doubt about the truthfulness of the eye-version account and there was ample time with the complainant side for consultation and deliberations in order to cook up a story of their own choice and in the case in hand they had utilized that time for implicating Bablu, Avtar and Savitri. The occurrence had taken place on 17-6-1999 at 3-30 AM. ASI Hari Ram of police station Sangaria had reached the hospital early in the morning at about 5-30AM, but the injured witnesses had refused to make their statements to him. Thereafter ASI Umed Singh (PW-18), who is the Investigating Officer of this case, recorded the statement of Ravinder Godara brother of the deceased at 9-15 AM. The special report reached the Illaqa Magistrate at 2-00 PM. According to the learned counsel, this flaw is also fatal to the prosecution case.

Mr. Ghai then submits that the complainant side in connivance with the police has taken undue advantage of some of the injuries on the person of Ravinder, which possibly could not be caused in the manner projected by the prosecution. While drawing our attention to the medical evidence he contends that injury No.1 on the person of Ravinder is a cut wound measuring 21 x 2.5 cms x bone deep on medial side of right foot parallel to sole from the distal end of metacorpol bone to posterior part of heel. This injury could not possibly be caused by a Gandasi, that too in the manner put forth by the complainant. Rather it is possible if one strikes against a sharp portion of iron sheet of the jeep and it may be appreciated from other surrounding circumstances of the case in hand. Our attention has also been drawn to a few photographs of the jeep (duly exhibited) which reflect that some blood had fallen in the centre of left side of its window (open window). Learned counsel contends that the case of Ravinder is that he was sitting by the side of Chhotu Ram, who was on steering of the jeep and after the second shot was fired at him by Sat Narain appellant, he in order to save himself jumped from the jeep towards left side and had fallen on the ground From this, he develops that when Ravinder was jumping out of the jeep in a hurry, the sharp side of the iron sheet might have caused cut on some portion of the right foot parallel to the sole but the said injury could not be result of a gandasi blow, allegedly shown to be in the hand of Bablu, that too when he (Ravinder) had fallen

on the ground. He submits that denial by the doctor to a suggestion put to him in this regard would be of no consequence when seen in the totality of the facts. The learned counsel then contends that the other two injuries are abrasions on medial side of left knee and left leg on upper 1/3rd part. These injuries being on one side are possible as a result of single fall from some height.

Mr. Ghai then submits that when statement of Ravinder was recorded by ASI Umed Singh, his M.L.R. was before him and he, therefore, implicated the persons of the choice of the complainant ascribing them different roles and this again is a very vital flaw in the case of the prosecution with regard to involvement of Bablu, Avtar and Savitri.

Mr. Ghai then submits that even otherwise the story as projected by the complainant in order to implicate aforesaid Bablu, and two others does not appeal to reasoning as Sat Narain would not have spared Ravinder at all, knowing fully well that he was empty handed, especially when the other co-accused were with him. From this, the learned counsel develops that either the story of firing the second shot at Ravinder, as projected by the prosecution, is false or the role ascribed to the aforesaid three persons in the shape of giving different injuries to him is not believable and this circumstance goes to show that participation of Bablu, his mother Savitri and Avtar at the time of occurrence is highly doubtful.

Mr. Ghai then contends that even otherwise Avtar Singh had

no interest in the property of Darshan Lal and Sat Narain could not have any motive to cause death of Chhotu Ram. The complainant side in order to overcome the weakness in its case qua Avtar Singh has made improvement in the substantive statement saying that he was seen in the house of Sat Narain earlier also. Sakeela PW has even gone to the extent of deposing that she had seen him 8/9 days prior to the occurrence.

On the basis of the aforesaid submissions, Mr. Ghai submits that the complainant side has knitted a net wider so as to involve the entire family of Sat Narain, which include his younger son Bablu and wife Savitri and did not spare even Avtar Singh, who happens to be a friend of Bablu. He further contends that although Savitri has been declared as a proclaimed offender by the prosecution and has not been arrested till date for the reasons best known to it, yet the benefit to be extended to Bablu and Avtar appellants on the basis of the aforesaid weaknesses would automatically pass on her as her case is not distinguishable on facts.

Arguing for appellant Sat Narain, Mr. Ghai contends that this accused has admitted his presence in the occurrence but in a different manner, asserting that Chhotu Ram deceased, Ravinder, Vikram & Darshan Lal summoned him at Dhani of Darshan, where he was threatened with dire consequences. When at about 3-30 AM he was returning to his Dhani along with his licensed gun in car, the aforesaid persons along with others came in a jeep and struck their jeep against his

car in order to kill him. Darshan, Chhotu Ram and Ravinder attacked him and he, in order to save himself, started running. When they chased him with the intention of killing, he fired a shot in self defence. He denies the presence of his co-accused and states that subsequently the case was fabricated as per the choice of the complainant side in connivance with the police. According to Mr. Ghai it was a case of firing of single shot, some pellets of which also hit Sakeela.

Mr. Ghai then contends that one fact which strengthens the case of the appellants is that Ravinder and Chhotu Ram (since deceased) are residents of village Chamar Khera which is at the distance of 60 kms from Dhani of Darshan Lal and Sat Narain, as is clear from the cross-examination of Darshan Lal (PW-12). Another substantive evidence which has come on record is that when Darshan Lal had an altercation with Bablu son of Sat Narain, a day prior to the main occurrence, he left Dhani in the evening and went to Chamar Khera to bring Chhotu Ram. Ravinder is, however, shown to be present even on 16-9-1999 on the pretext that he had come to meet his sister who is married to Darshan Lal PW. Chhotu Ram and his wife Sakeela reached Dhani of Darshan Lal at about 1.00 AM on the night intervening 16/17.6.1999. From this, Mr.Ghai wants to develop that the very fact that Darshan Lal had covered a distance of 120 Kms on the same evening and had brought his supporters from another village (Chamar Khera) despite the fact that Ravinder, real brother of

Chhotu Ram (deceased) was already staying with him and the fact that they had reached straightway at the Dhani of Darshan Lal goes to show that the complainant side had the motive to settle score with Sat Narain. Otherwise there could not be any occasion for Darshan Lal to bring Chhotu Ram that too on account of a minor altercation with his nephew a day prior. Even otherwise the story of an altercation between Darshan Lal and Bablu in the presence of Ravinder has been cooked up in order to make the motive stronger whereas the circumstances indicate otherwise. This rather shows that Ravinder was not present and had come with his brother Chhotu in a jeep. According to Mr. Ghai, the totality of facts and circumstances goes to show that the allegation of hurling abuses at the Dhani of Dashan Lal prior to the occurrence is again a made up story as the same does not appear to be true and, therefore, the plea of defence on the face of it appears to be more plausible.

Strengthening his arguments, Mr. Ghai submits further that the fact which corroborates the plea of Sat Narain appellant is that his Maruti car from its front is also damaged to some extent. In this regard he has drawn our attention to the photographs of the car showing the extent of damage. In the rough site-plan (Exhibit PO) prepared by ASI Umed Singh, at mark `B' broken number plate of the car is shown lying and at mark `C' and some broken part of the bumper of the jeep is shown lying on the path.

On the basis of the aforesaid submissions, Mr. Ghai submits

that the law makes every allowance to a person who apprehends a reasonable danger to his life from an adversary and he while exercising the right of private defence to his body can go to the extent of killing.

Mr. Ghai lastly submits that if it is held that Sat Narain appellant had fired more than one shot at the scene of occurrence, even then the present case in the alternative would fall within the mischief of Section 304 Part II IPC as Sat Narain can be said to have exceeded the right of his private defence. According to Mr. Ghai the present case cannot be of three shots at all as projected by the complainant right from the beginning The investigation has rather gone to the extent of showing the firing of four shots as ASI Umed Singh is shown to have lifted 4 empty cartridges and one missed cartridge from the field of Sat Narain, as per mark `D' in the rough site-plan (Ex.PO). This is contrary to the eye-version account. The learned counsel submits that in order to improve the case, the eye-witnesses have made all possible attempts to correlate this fact with the eye-version account showing that Sat Narain had re-loaded his gun at the scene of occurrence, but have not been successful to prove it to the hilt because of vital contradictions between the deposition of two material injured witnesses viz. Ravinder and Sakeela. Therefore, at the most the present case can be of firing of two shots at the complainant party by Sat Narain from his licensed DBBL gun, but that too in exercise of right of his private defence.

Mr. Sunil Katyal, the learned State counsel assisted by Mr. Vikram Chaudhary while repudiating the contentions of Mr. Ghai submits that it is a case in which forming of unlawful assembly is proved beyond doubt as all the appellants including Savitri (since declared as a proclaimed offender) initially went to the hamlet (Dhani) of Darshan Lal hurled abuses and when they were stopped from doing so. However, they did not desist. When Chhotu Ram, Ravinder and Sakeela were going to Banwari Lal of village Sangaria to seek his help in the matter, they were virtually way laid by all the accused by parking the car in the path. Raising of a lalkara in one voice of settling scores with Chhotu Ram and others also talks of the common intention and it is thereafter that the shots were fired by Sat Narain from his licensed gun. Mr. Katyal then submits that even if some discrepancies have crept in the medical and ocular version, the same are immaterial and are not going to affect the case of the prosecution for the reason that unlawful assembly was already formed and, therefore, every accused is vicariously liable for the act of other. He then contends that there is no reason to disbelieve Ravinder, who has received injuries at the hands of Bablu, Avtar and Savitri and, therefore, these three accused also have no escape.

Mr. Katyal then submits that the defence set up by Sat Narain or even by Bablu and Avtar is not at all appealing to the conscious. Rather it is self contradictory. From established facts on record, it is clear that

Sat Narain had the intention to kill Chhotu Ram and as such he had no right of self defence at all much less exceeding it as contended by Mr. Ghai. The conviction and sentence as already recorded by the learned trial Court qua all the three appellants, therefore, deserve to be maintained.

Mr. Katyal next submits that the impugned judgment is also liable to be modified to the extent that Bablu appellant deserves the minimum (life) punishment as awarded to his co-accused under Section 302 IPC and the learned trial Court has erred in relegating his case to Juvenile Justice Board for for passing of an appropriate order on the quantum of sentence. In fact before passing any order in this regard, the learned trial Court should have conclusively determined his date of birth, which is not done and held that his date of birth had already been determined as 15-11-1984. Mr. Katyal submits that in fact earlier enquiry made was with regard to the question as to whether Bablu was a juvenile within the provisions of Old Juvenile Justice (Care & Protection) Act, 1986 and, therefore, that exercise was carried out in a total different context. Therefore, the case of Bablu is not covered under the New Act and he deserves the minimum prescribed sentence while allowing Criminal Revision No. 1436 of 2005 filed by the State.

Mr. Chaudhary also toes the arguments advanced by Mr. Katyal, submitting that the Criminal Revision No. 1226 of 2004 filed by the complainant is also with regard to inadequate sentence awarded to Bablu.

On merits, Mr. Chaudhary submits that the case of Avtar Singh and Bablu or as a matter of fact Savitri also (since declared as a proclaimed offender) cannot be segregated from that of Sat Narain, the main accused, for the reason that all the four accused had gone to the hamlet (Dhani) of Darshan Lal carrying different weapons but the situation was diffused by Chhotu Ram (deceased). Sat Narain was nursing a grudge on account of meddling in the affairs by Chhotu Ram and others and that was the reason that they were waylaid by the present appellants & Savitri and a murderous assault was made by Sat Narain, from his licensed gun, whereas his three co-accused also caused injuries to Ravinder with their respective weapons. According to Mr. Chaudhary, it is not a case of one gun shot fired by Sat Narain at Chhotu Ram (deceased). He also made an attempt to kill Ravinder, but fortunately he saved himself by jumping out of the jeep. Sakeela also got injured from the third shot fired by him, but she was lucky enough and received certain pellet injuries and, therefore, common intention is writ large.

Let us take the case of Bablu and Avtar appellants first of all. The admitted position before us is that village of Chhotu Ram is at a distance of 65 kms from the Dhani of Darshan Lal. The very case set up by the prosecution is that Darshan Lal had gone to fetch them after he had an alternation with his nephew Bablu-appellant. Another admitted position is that they had reached the Dhani of Darshan Lal at about 1-00 O' Clock on

the night intervening 16/17-6-1999. What is to be appreciated now by us is as to whether the story as projected by the prosecution with regard to the first altercation ensued at about 3-30 AM on 17-6-1999 is a true version or the complainant side is making an attempt to show the complicity of Avtar Singh, Bablu and Savitri. It has come in evidence that when the aforesaid four persons had gone to the dhani of Darshan Lal, they were armed with similar weapons as attributed to them at the time of the main occurrence. Darshan Lal states that the headlights of the Maruti car brought by the accused were on. It has further come in evidence that they had parked their car in order to block the passage. Another fact which cannot be lost sight is that the motive highlighted by the complainant side is that Sat Narain was not happy with the meddling by Chhotu Ram in the dispute of the two brothers and it is he only, who has been assaulted first of all by Sat Narain in the main occurrence. It does not appeal to reasoning that when Sat Narain and others had gone to the dhani of Darshan Lal carrying arms and the other side was empty handed, still Sat Narain or any of the appellants had not caused any injury to any one and just returned after being pacified by Chhotu Ram. If that was so, there could not be any reason to enter into another altercation within a few minutes. This shows that the complainant side is suppressing true facts to some extent from the Court and it appears that the first altercation has not ensued, as now projected by the prosecution and a story has been coined up including showing the

headlights of the Maruti car on, with an attempt to show different weapons in the hands of different accused persons. In our considered view, this attempt has been made by the complainant side by taking undue advantage of the delay in lodging the First Information Report, that too with an oblique motive to falsely implicate the persons of their choice. We, therefore, find force in the submissions advanced by Mr. Ghai in this regard.

We are appreciating the case of the prosecution vis-a-vis the involvement of Bablu, Avtar and Savitri, yet from another angle. It has come on record that when the Investigating Officer reached the hospital, medico legal report was with him before recording the statement of Ravinder. The concerned persons were also there from the side of the complainant. The medico legal report reflects that there were 3 injuries on the person of Ravinder. Injury No.1 was a cut wound whereas injuries No.2 and 3 were abrasions on the medial side of left knee and left leg. Injury No.1 is attributed to Bablu. Avtar Singh appellant is shown to have caused injuries with his lathi on the left foot and knee of Ravinder. Savitri is also shown to have caused injuries to Ravinder with a Kasoli. However, no specific seat of injury is attributed to her as in the case of Avtar Singh and Bablu. Injury No. 2 indicates that there were 3 abrasions on medial side of left knee whereas injury No.3 is a single abrasion on the medial side of left leg. The case of Ravinder is that after the second shot was fired at him, he jumped from the jeep and had a fall on the left side. Admittedly he was

sitting on the left side of Chhotu Ram on the front seat. Therefore, the abrasions on his person that too on one side (left side) were possible by a fall. These are, however, attributed to Avtar Singh. At the same time, we have minutely examined the medico legal report regarding cut wound which is attributed to Bablu with a gandasi. The cut wound is 21 x 2.5 cms x bone deep on medial side of the right foot parallel to sole from the distal end of metacarpal bone to posterior part of heel. The case set up by Ravinder is that when he had a fallen after jumping out of the jeep, Bablu gave him a gandasi blow, which hit him on his right heel. The seat of injury indicates that it could not be caused in the manner as projected by Ravinder. The injury is rather possible if the heel strikes with the sharp edge of the iron sheet of the jeep. We have not only visualized the entire scene in the light of the testimony of the witnesses before us, but have considered the attending circumstances as well. The photographs (Exhibits P31 & P32) of the jeep go to show that some blood has fallen on its left front open window and also on some portion of left side mudguard and foot rest. This jeep is without windows and one can very comfortably appreciate that the iron sheet is protruding out and the blood can be seen fallen on one corner of the jeep. After appreciating this situation, we do not feel any difficulty in observing that when Ravinder made an attempt to jump out of the jeep by putting his one leg outside the vehicle, which is the natural reaction and in that hurried attempt medial side of the foot

received a cut wound of 21 cms. No doubt, in cross-examination Dr. Ola has stated that injury No. 1 is not possible on the person of Ravinder while sitting in the jeep. But it is not the case of Ravinder himself. He states that in order to save himself he had jumped from the jeep.

At the cost of repetition, we may mention here that Savitri is booked in the case without attributing any specific injury to her on the person of Ravinder and the only allegation against her is that she caused injuries with Kasoli being carried by her. We are of the firm view that the complainant side is holding back true facts from the Court for certain ulterior motives in order to involve the persons of their choice.

We have also noticed certain other flaws in the case of the prosecution with regard to involvement of aforesaid co-accused. The case of the prosecution before us is that Sat Narain had fired only one shot at Ravinder (second shot) and the third shot is fired at Sakeela. Sat Narain had made no attempt to release any shot towards Ravinder. It does not appeal to us that once Sat Narain was adamant to continue with the firing, he would have felt satisfied by releasing only one shot towards Ravinder, that too when the same had not hit him and left him at the mercy of his three co-accused, who are virtually causing no serious injury to him. This all does not fit in the scene of occurrence. Even otherwise, Ravinder states that he did not count the blows given to him by each of the accused. He further states that he cannot tell the number of blows given to him by all the

three accused. He then states that he cannot tell as to whether each of the accused had given one injury or three injuries to him.

Vikram, the other witness to the occurrence also wants to make his presence felt at the time of main occurrence and states that all the accused raised a lalkara that there was an opportunity to teach Chhotu Ram a lesson because he had been helping Darshan Lal. He was confronted with his previous statement (Ex.DD) in this regard. This improvement in fact has been made intentionally to show the common intention of all the accused, to bring the case within the ambit of Section 34 IPC. Otherwise as per the prosecution version, Vikram and Darshan Lal had remained at the dhani and Chhotu Ram, his wife and Ravinder left that place in their jeep. Darshan Lal also projects himself as an eye-witness to the occurrence. He is also confronted with his previous statement (Ex.DC) on the aforesaid fact. Darshan Lal and Vikram could not possibly see the occurrence even if one goes by the distance of Dhani of Darshan Lal, the place of occurrence. Even otherwise, it has come in their evidence that they reached the place of occurrence after hearing the alarm of Mar Dia! Mar Dia!(killed ! Killed !) Similarly Sakeela-wife of Chhotu Ram remained sitting in the jeep, as is clear from her statement. Possibly in the present scenario when Sat Narain was allegedly releasing the fire shots, she could not at least see Bablu, Avtar Singh and Savitri causing injuries to Ravinder that too when he was lying on the ground, whereas in her

substantive statement she has given photographic version of the occurrence stating that Ravinder was given gandasi blow by Bablu near the right knee and Avtar & Savitri had given injuries on his left knee and the lower portion. We are not at all inclined to accept this type of evidence so far as participation of aforesaid accused is concerned.

We also agree with the contention of Mr. Ghai that Avtar Singh has no concern with the property of Darshan Lal and Sat Narain, the two brothers and as such he could not possibly have any motive to cause murder of Chhotu Ram. Ravinder when stepped into the witness-box has made an improvement to overcome this weakness, stating that he was seen in the house of Sat Narain earlier also. Sakeela has also stated that she had seen him 8/9 days prior to the occurrence. This evidence does not appeal to the judicial conscience, which is an embodiment of reasoning.

Having assessed the case of the prosecution in its totality and after re-scanning the entire evidence on record, we have come to an irresistible conclusion that the case of the prosecution is not free from doubt with regard to the participation of Avtar Singh and Bablu. Therefore, extending benefit of doubt to them, they deserve to be acquitted of all the charges. Ordered accordingly.

It needs to be mentioned here that since we are going to acquit Bablu appellant keeping in our mind his participation to be doubtful, the Revision Petition filed by the complainant Criminal Revision No. 1226 of

2004 and Criminal Revision No. 1436 of 2005 filed by the State of Haryana also deserve to be dismissed as the grouse shown in both these petitions is with regard to inadequacy of the sentence awarded to him being a juvenile.

We are also conscious of the fact that the observation made hereinabove is going to affect the case of the prosecution qua Savitri (since declared as a proclaimed offender) in the event of any trial to be initiated against her at any subsequent stage, but on facts we cannot segregate her case from that of Bablu and Avtar Singh.

Let us now advert to the case of Sat Narain.

Mr. Ghai on the basis of his seasoned professional acumenship has made an attempt to dissect the case of Sat Narain in two parts; one that he had fired a single shot from his DBBL gun in exercise of the right of private defence, hitting Chhotu Ram and incidentally certain stray pellets hitting Sakeela, his wife and secondly in case of more than one shot being released from his gun, even that could be termed as exceeding the right of private defence. Therefore, his conviction under Section 302 IPC substantively as recorded by the trial Court is not sustainable. The second conviction under Section 307 IPC for allegedly causing fire arm injury to Sakeela PW would also have the same effect.

We shall now be covering all the aspects in this regard.

We feel the necessity of reproducing the defence plea set up by Sat Narain, may be at the cost of repetition. He has admitted his presence

in the occurrence. His plea is that Chhotu Ram (since deceased) along with Ravinder, Vikram had come to the Dhani of Darshan Lal, where he was summoned and threatened with dire consequences. He then asserts that at about 3-30AM when he was returning from his dhani along with his licensed gun in the car, the aforesaid persons struck their jeep against his car in order to kill him and thereafter he was attacked by Darshan Lal and Ravinder and in order to save himself, he started running and was chased by the aforesaid three accused persons and Sat Narain released one shot from his gun which incidentally hit Chhotu Ram. He, however, denies the presence of his co-accused. Mr. Ghai has developed his case contending that the complainant side had the aggressive attitude from the very beginning as Chhotu Ram was brought by Dashan Lal from a distant place and attacked Sat Narain. At the first blush his argument appears to be some what attractive but when seen in the totality of facts and circumstances of the case in hand, the same loses its effect. We are also keeping in mind the fact that the occurrence has taken place at a very odd hour i.e. 3-30 AM (night time) but the fact remains that the same is admited by Sat Narain and even otherwise from the medical evidence it has come that Chhotu Ram was examined within an hour or so by the concerned doctor upon his arrival in the hospital. We are also conscious of the fact that in the substantive statement, it had come that Sat Narain had turn of water after Darshan Lal and a day prior to the occurrence also, an altercation had

ensued between Bablu and Darshan Lal over the turn of water, as is evident. It is certainly a very trivial issue for which help of outsiders is not required. But at the same time this Court has to appreciate the entire case qua Sat Narain appellant on the basis of his specific defence vis-a-vis the evidence before us. Whether the right of private defence was available to him or not, the following facts have in fact led us to draw a conclusion that Sat Narain has not acted in the exercise of his private defence:

(i) Presence of Sakeela at the time of occurrence;

(ii) Complainant side was empty handed;

(iii) All the injured are from Chhotu Ram's family and

(iv) Plea of Sat Narain does not fit in as per the facts and circumstances of the case.

Sat Narain does not talk about the presence of Shakeela at all at the time of occurrence in his defence plea. His stand is that Chhotu Ram along with Ravinder, Vikram and Darshan Lal had struck their jeep against his car when he was returning to Dhani in his car with his licensed gun. Although we have already doubted the prosecution case with regard to first altercation as projected by it in front of Dhani (hamlet) of Darshan Lal where Sat Narain, Bablu, Avtar and Savitri had abused the complainant side yet Sat Narain in his statement talks about his calling at the Dhani of Darshan Lal where he was threatened with dire consequences by the aforesaid accused. He rather goes to show that certain outsiders (hired

persons) had also come with Chhotu Ram. If we take the plea as set up by Sat Narain to be true then in that eventuality some one else along with Chhotu Ram, Sakeela and Ravinder would have certainly received some injuries. It is not so. The hired persons do not come without any weapon. Sat Narain does not say a word about any weapon being carried by the complainant side. He simply states that he was attacked by them. This goes to show that at the time of occurrence there was no one else except Chhotu Ram, his wife and Ravinder who were going to village Babrian from Dhani of Darshan Lal. If the entire scene is visualized in the present set of circumstances, it can be said that the plea raised by Sat Narain to the effect that he was called in the Dhani and threatened by Chhotu Ram and others goes against him for the reason that in any case he had the grudge in his bosom against Chhotu Ram (since deceased) an outsider for extending help to Darshan Lal. Chhotu Ram in any case would not be the aggressor. Assuming for the sake of argument, even if we doubt the presence of Ravinders at the Dhani of Darshan Lal one day prior to the occurrence when some altercation had ensued with Bablu, still it would not make his presence doubtful at the time of main occurrence as it is very well established from facts beyond any doubt that he was also travelling in the jeep along with Chhotu Ram and Sakeela. It is true that we have disbelieved the prosecution story with regard to participation of Bablu, Avtar Singh and Savitri vis-a-vis the injuries received by Ravinder but it

does not lead us to draw a conclusion that Ravinder was not in the jeep. Our finding is that the injuries received by him could be possible by a fall or by cutting of sharp edged iron sheet of the jeep but not by the aforesaid appellants. All these facts leave no room for doubt for us to observe that from the side of the complainant except Chhotu Ram, his brother Ravinder and his wife Sakeela, none else were travelling in the jeep and from the other side Sat Narain was present along with his licensed gun at the place of occurrence. Chhotu Ram will not take his wife Sakeela for opening an assault on Sat Narain. Another fact which also goes in favour of the prosecution is that Chhotu Ram and his brother Ravinder were un-armed. If the intention was to beat Sat Narain that too by calling hired persons, the scene would have been different. If we see it from another angle that once Sat Narain was threatened of dire consequences by Chhotu Ram and others, some time prior to the occurrence there was no need to attack him once again within a short span of time. As is clear from the site-plan the distance between Dhani of Darshan Lal and of Sat Narain is about 150 feet and travelling by jeep was not required. We have appreciated the plea of Sat Narain with regard to the damage of two vehicles and the other connected aspects from the Scaled Plan-Exhibit PD. Point 'A' indicates the place of occurrence. It is on southern side of the fields of Sat Narain (killa No. 22), where a water course is also shown on the eastern side of point 'A'. On the northern side of water course, there is main gate of Dhani

of Darshan Lal and thereafter two rooms belonging to Sat Narain are shown. Dhani is shown at point 'F' and the distance between point 'A' and 'F' is indicated as 30 karms (about 100 feet). The kacha passage is shown in red ink. It goes to killa no. 22 up to water course. This scaled plan is absolutely in consonance with the rough site plan prepared by the Investigating Officer at the instance of the eye witnesses. The case set up by the complainant side is that Sat Narain had intentionally kept his Maruti car in that passage whereas the plea of Sat Narain is that Chhotu Ram had intentionally struck his jeep against his Maruti car in order to assault him. No doubt both the vehicles were damaged to some extent inasmuch as the number plate of Maruti Car was broken and as per photographs one of its side is having scratches. Some portion of the bumper of the jeep is also broken and fallen on the ground. But in our view, this aspect would not make much difference as the Kacha passage was not that wide to let two vehicles pass comfortably. If one of the vehicles is parked on the passage (kacha rasta), the second vehicle could pass through the passage only by going through the fields. There is every possibility that when the passage was blocked by Sat Narain by parking the car with an intention to way lay Chhotu Ram and in that process if the jeep was to pass, it could not escape striking the other vehicle. Therefore, Sat Narain appellant cannot derive any advantage from it.

The point 'D' shown in the scaled plan is the place from

where Sat Narain appellant was alleged to have fired shots. This is in the field No. 22 belonging to Sat Narain. As stated above, if one goes from Dhani of Darshan Lal through katcha rasta, he has to pass through the field No. 22 of Sat Narain. From all these factors we can comfortably observe that the stand of Chhotu Ram, Ravinder and Sakeela that they were going to village Babria and were stopped by Sat Narain by parking his Maruti car on the kacha rasta is more probable as compared to the defence set up by Sat Narain. Chhotu Ram is shown on the steering of the jeep and this is the reason that all the pellet injuries on the person of Chhotu Ram are on his right side as they are from point `D'. So is the position of Sakeela injured who was sitting at the back seat just behind Chhotu Ram her husband. Since Ravinder was sitting on the left side of Chhotu Ram he had jumped from the jeep towards the other side (left side). So the entire incident has been examined by us with due care to come at the just conclusion.

We are also aware of the settled legal position that even if the accused does not take the plea of self defence and from the totality of facts and circumstances of the case if the Court can come to a definite conclusion that such defence is available to him, the same can be accepted for the purposes of acquittal. We are also aware of the cardinal principle of law that a person, who has a right of private defence, is not expected to modulate step by step and gauge the thrust of his blow in golden scales. He even without sustaining any injury can defend himself if reasonable

apprehension of being attacked from the other side is there. But after re-capitulating the entire scene of occurrence on the basis of the substantive evidence and the other surrounding circumstances, we do not find it to be a fit case in which Sat Narain appellant had any apprehension of being attacked, muchless reasonable for which he could exercise the right of private defence. Therefore, in our considered view, it is a clear case of murder for which he deserves to be punished under Section 302 IPC.

Since on the basis of the aforesaid discussion we have arrived at the conclusion that the right of private defence was not available to Sat Narain, the alternative argument of Mr. Ghai with regarding to diluting the offence on the ground of exceeding the right of private defence falls on the ground.

We have also appreciated the case of the prosecution with regard to charge of Section 307 IPC qua Sat Narain appellant. We do find some discrepancies in the eye-version account vis-a-vis the investigation conducted but the same is of no help to him. The case set up by the prosecution is that Sat Narain had fired three shots; one at Chhotu Ram hitting on his right side; second at Ravinder, who incidentally escaped unhurt and the third at Sakeela causing her injuries, who was sitting behind Chhotu Ram on the back seat of the jeep. The substantive evidence before us is that the gun was reloaded by Sat Narain. The argument advanced by Mr. Ghai is that only one shot was fired by Sat Narain and a crude padding has been done by the investigating agency in connivance with the complainant side in order to project it as a case of repeated firing of shots is of no consequence as we have already held him guilty for the charge under Section 302 IPC substantively for causing murder of Chhotu Ram. Still

after rescanning the entire case in its right perspective, we are of the firm view that it is a case of more than one shots, causing pellet injuries to Sakeela PW also. Therefore, the conviction of Sat Narain appellant under Section 307 IPC also deserves to be re-affirmed. Resultantly his conviction under Sections 302 IPC and 307 IPC is upheld. However, he is acquitted of the other charges under Sections 324/34 and 323/34 IPC.

The net result is that Criminal Appeal No. 497-DB of 2004 filed by Avtar Singh and Criminal Appeal No. 714-DB of 2004 filed by Bablu are allowed, both the appellants are acquitted of all the charges. They are discharged of the bail bonds already furnished by them. Criminal Appeal No. 533-DB of 2004 filed by Sat Narain is dismissed. Criminal Revision No. 1226 of 2006 titled as **Ravinder Kumar Godara Vs. State of Haryana and another** and Criminal Revision No. 1436 of 2005 titled as **State of Haryana Vs. Bablu** are also dismissed.

(Virender Singh)
Judge

(A.N. Jindal)
Judge

August 17, 2006
'ask/dalbir'

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

Date of decision : August 17, 2006

Criminal Appeal No. 533-DB of 2004

Sat Narain Vs. State of Haryana

Coram: Hon'ble Mr. Justice Virender Singh
Hon'ble Mr. Justice A.N. Jindal

Present: Mr. RS Ghai, Senior Advocate, with
Mr. Bipan Ghai, Advocate, for the appellant

Mr. Sunil Katyal, Deputy Advocate General, Haryana
Mr. Vikram Chaudhary, Advocate, for the complainant.

Virender Singh, J.

For detailed judgment, see Criminal Appeal No. 497-DB of 2004, **Avtar Singh Vs. State of Haryana**

(Virender Singh)
Judge

(A.N. Jindal)
Judge

August 17, 2006
'ask/dalbir'

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

Date of decision : August 17, 2006

Criminal Appeal No. 714-DB of 2004

Bablu Vs. State of Haryana

Coram: Hon'ble Mr. Justice Virender Singh
Hon'ble Mr. Justice A.N. Jindal

Present: Mr. RS Ghai, Senior Advocate, with
Mr. Bipan Ghai, Advocate, for the appellant

Mr. Sunil Katyal, Deputy Advocate General, Haryana
Mr. Vikram Chaudhary, Advocate, for the complainant.

Virender Singh, J.

For detailed judgment, see Criminal Appeal No. 497-DB of 2004, **Avtar Singh Vs. State of Haryana**

(Virender Singh)
Judge

(A.N. Jindal)
Judge

August 17, 2006
'ask/dalbir'

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

Date of decision : August 17, 2006

Criminal Revision No. 1226 of 2004

Ravinder Kumar Godara Vs. State of Haryana and another

Coram: **Hon'ble Mr. Justice Virender Singh**
Hon'ble Mr. Justice A.N. Jindal

Present: Mr. Vikram Chaudhary, Advocate, for the petitioner
Mr. Sunil Katyal, Deputy Advocate General, Haryana
Mr. RS Ghai, Senior Advocate, with
Mr. Bipan Ghai, Advocate, for private respondents

Virender Singh, J.

For detailed judgment, see Criminal Appeal No. 497-DB of 2004, **Avtar Singh Vs. State of Haryana**

(Virender Singh)
Judge

(A.N. Jindal)
Judge

August 17, 2006
'ask/dalbir'

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

Date of decision : August 17, 2006

Criminal Revision No. 1436 of 2005

State of Haryana Vs. Bablu

Coram: Hon'ble Mr. Justice Virender Singh
Hon'ble Mr. Justice A.N. Jindal

Present: Mr. Sunil Katyal, Deputy Advocate General, Haryana
Mr. RS Ghai, Senior Advocate, with
Mr. Bipan Ghai, Advocate, for the respondent

Virender Singh, J.

For detailed judgment, see Criminal Appeal No. 497-DB of 2004, **Avtar Singh Vs. State of Haryana**

(Virender Singh)
Judge

(A.N. Jindal)
Judge

August 17, 2006
'ask/dalbir'